

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 ERIC GARCIA,

Case No.: 2:23-cv-01316-APG-EJY

4 Plaintiff

**Order**

5 v.

[ECF No.]

6 STATE OF NEVADA,

7 Defendant

8 On October 2, 2023, Magistrate Judge Youchah recommended that I dismiss this case  
9 without prejudice to plaintiff Eric Garcia initiating habeas proceedings or to properly commence  
10 a civil rights action by filing a complaint and paying the filing fee or applying to proceed in  
11 forma pauperis. ECF No. 2. Garcia did not object. I therefore accepted Judge Youchah's  
12 recommendation and dismissed this case without prejudice. ECF No. 3. After the case was  
13 dismissed, Garcia filed a motion for post-conviction habeas corpus relief that was captioned in  
14 the Fifth District Court, Nye County, Nevada. ECF No. 5. To the extent this is meant to be a  
15 habeas petition in this federal case, this case is already closed. I again advise Garcia that if he  
16 wants to pursue a federal habeas corpus petition, he must file a new petition in a new case.

17 I THEREFORE ORDER that plaintiff Eric Garcia's motion (**ECF No. 5**) is **DENIED** as  
18 a rogue filing.

19 DATED this 30th day of August, 2024.

20 

21 ANDREW P. GORDON  
22 UNITED STATES DISTRICT JUDGE  
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